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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,975	11/13/2001	Shunji Imai	43890-552	6015

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EXAMINER

PERRIN, JOSEPH L

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,975

Applicant(s)

IMAI ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 and 23-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In response to applicant's response filed 18 February 2005, the status of the application is as follows:

The objection to claims 21-22 is withdrawn in view of applicant's amendment obviating the objection.

It is noted that applicant argues against a "general rejection under 35 U.S.C. §112, first paragraph without rejecting any specific claims", however, no such rejection was made but rather an objection to the original disclosure (namely, claims 2, 3 & 19) due to the language required under 35 U.S.C. §112, first paragraph, which requires the specification to be written in "full, clear, concise, and exact terms." Thus, the objection of claims 2, 3 and 19 is withdrawn in view of applicant's amendment obviating the objection.

The rejection of claims 4 & 8 under 35 U.S.C. §112, second paragraph is withdrawn in view of applicant's amendment overcoming the rejection.

In view of applicant's claims as amended, applicant's arguments regarding the rejections under 35 U.S.C. §§102 & 103 over LIGHTBOURNE are persuasive. Accordingly, these rejections are withdrawn.

Applicant's arguments regarding MISENHIMER and WULF have been fully considered but they are not persuasive. In response to applicant's arguments that MISENHIMER "is silent as to the recited joint interconnections

and instead discloses only a rubber friction ring 15", applicant is directed to Figures 1, 3, 4, and page 1, second column, lines 32-44 of MISENHIMER which discloses a connection structure 13, a speed reducer (gear means), and a rotary transfer joint (various components such as any of 27/28/34/32/30). In response to applicant's argument that WULF "does not disclose the recited joint interconnections", this is not persuasive because WULF does recite the recited joint connections (see rejection over WULF). In response to applicant's argument that the term "washing" in the preamble is not intended use and must be given patentable weight, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (emphasis in original) Since applicant is silent with respect to how the term "washing" imparts any structural elements to the claimed apparatus, or how such language structurally defines the claimed invention over the prior art of record, applicant's arguments are not persuasive.

Applicant's arguments regarding MISENHIMER in view of COLEMAN have been fully considered but they are not persuasive. Applicant argues essentially that since the rejection under §102 is improper the rejection under §103 is also improper. This is not persuasive because applicant the rejection under §102 is proper.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 5-6, 8-10 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by MISENHIMER (previously cited). Re claim 1, MISENHIMER discloses a washing apparatus with base 11/13 including rotary motor 16 and washing tank 14 including at least one blade 54, a connection structure 13 detachably coupling the base with tank 14, and a speed reducer (gear means) in the base and disposed between the motor and a rotatable transfer joint (any of 27/28/34/32/30) (see Figures 1 & 3-4 and relative associated text, especially page 1, second column, lines 32-44). Re claim 5, MISENHIMER further discloses means for controlling rotation of the blade (motor cord 17, *i.e.* turning apparatus on/off, page 1, lines 21-25). Re claim 6, MISENHIMER further discloses the tank having grips 59 (Figures 1, 3 & 5 and relative associated text). Re claim 8, MISENHIMER further discloses at least one convex longitudinal portion 54 on the inner wall of the tank (Figures 1, 3, & 5 and relative associated text). Re claims 9-10, MISENHIMER further discloses a cover 66 with a lock mechanism 68 (Figure 5 and

relative associated text). Re claim 19, MISENHIMER further discloses the base having a guide 13 at the top to seat tank 14 (Figures 1 & 3 and relative associated text).

4. Claims 1-7, 9-10 & 19-22 are rejected under 35 U.S.C. 102(e) as being anticipated by WULF (previously cited). Re claims 1 & 5, WULF discloses an apparatus with motor driven base 32 with connection structure for a detachably mounted tank 34 including stirring blades 112, and means 68 for controlling the blade (see, for instance, Figure 3 and relative associated text). Re claims 2-4, WULF further discloses transfer joint 56 connecting the rotary drive base to a transfer joint (not shown) below rotatable blades 112 (Figure 3). Although WULF does not explicitly show a rotatable shaft connecting the motor to joint 56, the position is taken that such a shaft inherently must exist in order to transfer rotary power from the motor base to joint 56. Similarly, although WULF does not explicitly show a "speed reducer...installed in the driving side base...between the rotary drive unit...and a rotatable transfer joint", the position is taken that since WULF is replete with teachings of varying the rotary speed, a "speed reducer" inherently must exist in order to slow down the blade speed in response to speed controller 68 otherwise the rotating blades would not slow down. Although not relied upon, it is noted that applicant's admitted prior art (figure 41 and relative associated text) discloses a conventional speed reducer in a related rotary apparatus. Re claims 6-7 & 9-10, WULF further discloses the tank having a grip 70 (Figures 3 and 6), a water level line 78 (Figure 6), and a cover 82 with lock mechanism 84 (Figures 3 & 7). Re claims 19-20, WULF further discloses a guide 54 on top of the base (Figures 3/15) and tank fixing portions on the tank (190/200) and base (48/50) to lock the tank to the base

(Figures 2-3 and relative associated text). Re claim 21, WULF further discloses sensors 66/67 connected to controller 224 for sensing/detecting presence of a top mounted tank and controlling rotary function of the base (Figure 4 & col. 13, lines 19-48). Re claim 22, WULF further discloses outer periphery projections 190/200 which cover the transfer joints (Figure 2). It is noted that the term "washing" is considered intended use and given little patentable weight in the claimed structure. WULF discloses the apparatus for use in "household appliances" and discloses using different "rotation speeds" and "mixing" (col. 1, lines 6-17). Accordingly, the apparatus of WULF reads on applicant's claimed apparatus.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over MISENHIMER in view of COLEMAN. Recitation of MISENHIMER is repeated here from above. Although the washing tank MISENHIMER has a top edge which limits the amount of wash fluid capable of being added to the tank thereby creating a predetermined amount of wash fluid added to the washing tanks, neither reference explicitly discloses water level lines on the washing tanks. COLEMAN teaches that it is known to provide a container with level lines in order to add fluids to a container at predetermined levels (col. 1, lines 30-44 & col. 2, line 56 *et seq.*). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was

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made would have been motivated to modify the washing tank of MISENHIMER with water level lines for the purpose of achieving predetermined water levels. It is further noted that using fluid level lines in containers has been well established in various arts, for instance, in swimming pools, whirlpools, measuring cups, cleaning solution dispensers, turkey fryers, etc.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

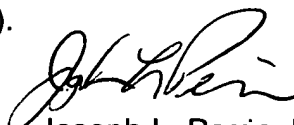
7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

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9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph L. Perrin, Ph.D.
Examiner
Art Unit 1746

jl/p